

Notice of Allowability

Application No.

10/720,021

Examiner

Sudhaker B. Patel, D.Sc.Tech.

Applicant(s)

MIYAKE ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/12/04.
2. ☒ The allowed claim(s) is/are 1-6 and 8.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 1/19/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Art Unit: 1624


EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with ATTY. Mr. Pitlick on 12/15/04.

The application has been amended as follows:

- (A). Please delete claims 7,9,10.
- (B). In claim 8, page 193, line 20 please delete [or preventing] .

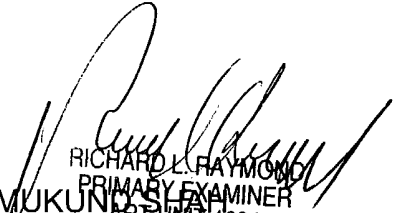

SBP/-12/15/04

2. The following is an examiner's statement of reasons for allowance:
3. Applicants' communication paper dated 11/12/04 is acknowledged.
4. Applicants have cancelled claims 7,9,10 and amended claim 8(see attached examiner's amendment, fax, and interview summary dated 12/15/04). Therefore the claims under consideration are the claims 1-6,8, which are renumbered as claims 1-7 respectively.
5. Applicants' arguments and remarks have been reviewed, and found persuasive.
6. Applicants' above stated arguments and remarks are sufficient for the withdrawal of rejections made under 35 U.S.C. 112 paragraph second. Therefore, the same are now withdrawn.
7. The art reference of record Matsuo et al (U.S.P. 6087357 dated 7/2000) claims priority to PCT publication date of June 26 1997. Therefore, the reference application ' 357 is not a prior art for the instant invention claiming priority date of Australian patent application Sr. NO. PO 7359, filed June 17, 1997.
8. The closest prior art of record reference Matsuo et al (EP 655442 dated 5/1995) make compounds with a core:" indole-CH₂-CH₂-Npiperazine (substituted by-CH₂-Ph) N-CO-phenyl".
9. The instant invention differ from ref.'442 by having a core:" Substituted pyridine-Npiperazine (substituted by-Y-R₂) N-CO- substituted phenyl, wherein Y is a bond or lower alkylene, R₂ is aryl/phenyl or indolyl".

Art Unit: 1624

10. The reference ' 443 does not indicate or suggest to arriving at the instant invention.
11. Therefore, the instant invention is deemed to be novel and patentably distinct.
12. Signed copy of PTO Form 1449 submitted on 2/19/04 is enclosed with this communication for applicants' records.
13. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker B. Patel, D.Sc.Tech. whose telephone number is (571) 272-0671.
13. The examiner can normally be reached on 6:30 to 5:00 pm (Monday-Thursday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund J. Shah can be reached on (571) 272 0674 or Sr. Examiner Mr. Richard Raymond at (571) 272 0673 or Mr. James O. Wilson at (571) 272-0661.
14. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 4556 for regular communications and 703 308 4556 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.
15. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sudhaker B. Patel, D.Sc. Tech.
December 15, 2004


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ART UNIT 1624/1623